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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/757,120	01/14/2004	Yutaka Tohgi	0307682 H8059US	2960
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Pillsbury Winthrop LLP Intellectual Property Group Suite 2800 725 South Figueroa Street Los Angeles, CA 90017-5406				
			EXAMINER EHICHIOYA, FRED I	
			ART UNIT 2162	PAPER NUMBER
			MAIL DATE 06/21/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

10/757,120

Applicant(s)

TOHGI ET AL.

Examiner

Fred I. Ehichioya

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 May 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 - 19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 - 19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                 | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                        | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This Office Action is responsive to communication filed November 29, 2006.
2. Claims 1– 19 are pending in this Office Action.

### ***Response to Arguments***

3. Applicant argument regarding Kotani reference (US Pub. No. 2004/0126094) having a filing date of July 22, 2003, which is after the January 14, 2003 priority date of Document JP 2003-006114 of the instant application is persuasive. Therefore, the Kotani's reference is hereby withdrawn from the last Office Action.
4. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 – 4, 8 – 11, and 16 - 19 are rejected under 35 U.S.C. 102(b) as being anticipated by USPN 6,262,915 issued to Kihara et al (hereinafter "Kihara").

Regarding claim 1, Kihara discloses a performance information reproducing apparatus comprising:

a file storage device that stores a musical tone data file, in which musical tone information is recorded (see column 13, lines 50 – 53 wherein ATRAC3 data file that stores the music data is interpreted as “music tone data file”), and at least one media data file, in which at least one other type of media information is recorded (see column 11, lines 51 – 59 wherein CAT.MSF that store audio data is interpreted as one of the disclosed “media data file”), together with a management file in which reading manners of the musical tone data file and the media data files are recorded (see column 13, lines 54 – 57 wherein management file is disclosed and music data therein inherently include musical tone data); and

a reproduction data generating device that generates (see column 6, lines 38 – 39 wherein the SRAM is the reproduction apparatus/device), based on the musical tone data file and the management file see column 13, lines 54 – 57 wherein management file is disclosed and music data therein inherently include musical tone data), reproduction data that designates the musical tone information (see column 12, line 55 wherein music files inherently includes music tone information) and the media data file to be reproduced, using designation information in a same format as the musical tone information recorded (see column 11, lines 51 – 59 wherein CAT.MSF that store audio data is interpreted as one of the disclosed “media data file”).

Regarding claim 2, Kihara discloses wherein said file storage device stores a plurality of media data files, in which a plurality of types of media information are recorded, respectively (see Fig.7 wherein plurality of directories and files that store media data files are disclosed).

Regarding claim 3, Kihara discloses wherein the plurality of media data files (see Fig.9 wherein music program data files are interpreted as media data files), in which the plurality of types of media information are recorded, respectively, comprise an audio data file (see column 11, lines 51 – 59 wherein CAT.MSF that store audio data is interpreted as one of the disclosed “media data file”), and a video data file (see column12, lines 55 wherein the music file is interpreted as video data file).

Regarding claim 4, Kihara discloses wherein the management file comprises file names of the media data file (see column 11, lines 51 – 59 wherein CAT.MSF that store audio data is interpreted as one of the disclosed “media data file” and CAT.MSF is the file name), and pieces of timing data indicative of timing of start of reproduction of the media data file, the file names and the pieces of timing data being arranged in order of reproduction (see Fig.10A that shows the start and end of the music program and column 9, line 17 also discloses timing process of the memory device).

Regarding claim 8, Kihara discloses a performance information reproducing apparatus comprising:

a file storage device that stores a musical tone data file, in which musical tone information is recorded (see column 13, lines 50 – 53 wherein ATRAC3 data file that stores the music data is interpreted as “music tone data file”), and at least one media data file, in which at least one other type of media information is recorded (see column 11, lines 51 – 59 wherein CAT.MSF that store audio data is interpreted as one of the disclosed “media data file”), together with a management file in which reading manners of the musical tone data file and the media data files are recorded (see column 13, lines 54 – 57 wherein management file is disclosed and music data therein inherently include musical tone data); and

a reproduction data generating device that generates (see column 6, lines 38 – 39 wherein the SRAM is the reproduction apparatus/device), based on the musical tone data file and the management file see column 13, lines 54 – 57 wherein management file is disclosed and music data therein inherently include musical tone data), reproduction data that designates the musical tone information (see column 12, line 55 wherein music files inherently includes music tone information) and the media data file to be reproduced, using designation information in a same format as the musical tone information recorded (see column 11, lines 51 – 59 wherein CAT.MSF that store audio data is interpreted as one of the disclosed “media data file”);

a reproduction data storage device that stores the generated reproduction data (see column see column 32, lines 33 – 36 wherein hard disk is the storage device);

a reading device that reads the reproduction data from said reproduction data storage device in accordance with reproduction clock for the musical tone information (see column 7, lines 10 – 20 wherein the recorder/player is the reading device); and

a reproducing device that reads the media data file designated by the read reproduction data (see column 4, lines 62 – 67 wherein the reproducing apparatus is interpreted as the reproducing device), and reproduces the musical tone information in the reproduction data (see column 12, line 55 wherein music files inherently includes music tone information) and the media information in the media data file in synchronism with each other (see column 19, lines 63 – 67 wherein synchronous reproduction is interpreted as synchronism of the media files).

Regarding claim 9, Kihara discloses a performance information reproducing apparatus according to claim 8, wherein said file storage device stores a plurality of media data files, in which a plurality of types of media information are recorded, respectively (see Fig.7 wherein plurality of directories and files that store media data files are disclosed).

Regarding claim 10, Kihara discloses a performance information reproducing apparatus according to claim 9, wherein the plurality of media data files, in which the plurality of types of media information are recorded, respectively, comprise an audio data file (see column 11, lines 51 – 59 wherein CAT.MSF that store audio data is

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interpreted as one of the disclosed "media data file"), and a video data file (see column 12, lines 55 wherein the music file is interpreted as video data file).

Regarding claim 11, Kihara discloses a performance information reproducing apparatus according to claim 8, wherein the management file comprises file names of the media data file (see column 11, lines 51 – 59 wherein CAT.MSF that store audio data is interpreted as one of the disclosed "media data file" and CAT.MSF is the file name), and pieces of timing data indicative of timing of start of reproduction of the media data file, the file names and the pieces of timing data being arranged in order of reproduction (see Fig. 10A that shows the start and end of the music program and column 9, line 17 also discloses timing process of the memory device).

Claim 16 is essentially the same as claim 1 except that it sets forth the claimed invention as a method rather than an apparatus and therefore rejected for the same reasons as applied hereinabove.

Claim 17 is essentially the same as claim 8 except that it sets forth the claimed invention as a method rather than an apparatus and therefore rejected for the same reasons as applied hereinabove.



Claim 18 is essentially the same as claim 8 except that it sets forth the claimed invention as reproducing program rather than an apparatus and therefore rejected for the same reasons as applied hereinabove.

Claim 19 is essentially the same as claim 8 except that it sets forth the claimed invention as reproducing program rather than an apparatus and therefore rejected for the same reasons as applied hereinabove.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 5 – 7, and 12 - 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kihara in view of USPN 4,942,551 issued to Klappert et al (hereinafter "Klappert").

Regarding claim 5, Kihara disclose the claimed subject matter as discussed in claims 1 and 4 respectively.

Kihara does not explicitly teach MIDI event as claimed.

Klappert discloses wherein the musical tone data file comprises MIDI events, and pieces of timing data indicative of MIDI clock timing of start of processing the MIDI

event, the MIDI events and the pieces of timing data being arranged in order of reproduction (column 4, lines 49 – 56).

It would have been obvious to one of ordinary skills in the art at the time of the present invention to combine the cited references because Klappert's teaching of "MIDI" would allow Kihara's system connect together music synthesizers, music instruments and computer. The motivation is that MIDI devices are used for creating, recording and playing back music. Incorporating MIDI device into Kihara's system simplifies the process of reproduction of musical data.

Regarding claim 6, Klappert discloses wherein the reproduction data comprises file names of the media data file (see column 7, lines 48 – 49), and pieces of timing data indicative of MIDI clock timing of start of reproduction of the media data file (column 4, lines 49 – 56), the file names and the pieces of timing data being arranged in order of reproduction (see column 6, lines 43 - 49).

Regarding claim 7, Klappert discloses wherein the timing data indicative of MIDI clock timing of start of reproduction of the media data file is generated from data indicative of timing recorded in the management file (column 4, lines 49 – 53).

Regarding claim 12, Klappert discloses wherein the musical tone data file comprises MIDI events, and pieces of timing data indicative of MIDI clock timing of start of processing the MIDI event, the MIDI events and the pieces of timing data being arranged in order of reproduction (column 4, lines 49 – 56).

Regarding claim 13, Klappert discloses wherein the reproduction data comprises file names of the media data file (see column 7, lines 48 – 49), and pieces of timing data indicative of MIDI clock timing of start of reproduction of the media data file (column 4, lines 49 – 56), the file names and the pieces of timing data being arranged in order of reproduction (see column 4, lines 49 - 59).

Regarding claim 14, Klappert discloses wherein the timing data indicative of MIDI clock timing of start of reproduction of the media data file is generated from data indicative of timing recorded in the management file (column 4, lines 49 – 53).

Regarding claim 15, Klappert discloses wherein the reproduction clock for the musical tone information is MIDI clock, and wherein whenever timing corresponding to the timing data indicative of MIDI clock timing of start of reproduction of the media data file is reached, the media data file having the file name corresponding to the MIDI clock timing is read from said file storage device (column 5, lines 48 – 55).

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**Conclusion**

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fred I. Ehichioya whose telephone number is 571-272-4034. The examiner can normally be reached on M - F 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John E. Breene can be reached on 571-272-4107. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

*Cam yu*  
primary Examiner  
Cam y Truong

Fred I. Ehichioya  
Patent Examiner  
Art Unit 2162



June 13, 2007